

FACT SHEET

Case #REZ-2017-0049

Bill # Z-17-11-15

Project Start: 28 November 2017

APPLICANT:	Ronald Falls
REQUEST:	To rezone property from R1/Single Family Residential to C2/Limited Commercial to permit the existing parking lot.
LOCATION:	The site lies on the north side of the 700 block of Kenwood Avenue. The property is to the west of Referral Cleaning and Restoration (Section 36 of Washington Township).
LAND AREA:	Approximately .2 acres
PRESENT ZONING:	R1/Single Family Residential
PROPOSED ZONING:	C2/Limited Commercial
COUNCIL DISTRICT:	2-Russ Jehl
ASSOCIATED PROJECTS:	None
SPONSOR:	City of Fort Wayne Plan Commission

11 December 2017 Public Hearing

- One neighborhood representative spoke at the hearing in favor
- No one spoke at the hearing in opposition.
- Staff recommended Do Pass with a Written Commitment.
- Mike Bynum and Billy Davenport were absent.

18 December 2017 – Business Meeting

Plan Commission Recommendation: DO PASS w/Written Commitment

A motion was made by Judi Wire and seconded by Don Schmidt to return the ordinance with a Written Commitment to Common Council for their final decision.

7-0 MOTION PASSED

- Billy Davenport and Justin Shurley were absent.

Fact Sheet Prepared by:
Michelle B. Wood, Senior Land Use Planner
4 January 2018

Reviewed by:



Kimberly R. Bowman
Executive Land Use Director

PROJECT SUMMARY

The petitioner and property owner wishes to rezone the existing parking lot at 701 Kenwood Avenue to C2/Limited Commercial, from R1/Single Family Residential. The proposal is to bring the existing parking area into compliance with the appropriate zoning district and the remainder of the property located at the northwest corner of Kenwood and Parnell Avenues. The applicant has recently started conversion of the north building of the property immediately east of the parking area to convert the building into residential units. As part of that improvement he also resurfaced the parking lot and installed solid board fencing to screen the property from the adjacent residential homes. No other improvements are proposed on the ground proposed for rezoning.

The corner of the Kenwood and Parnell Avenue is developed commercially and rezoning this small amount of real estate to bring it into compliance for a parking area for the associated residential and commercial business is in line with the other three corners of the intersection. The corner currently has the applicant's business, an auto repair facility, a bar, and a Dairy Queen. The properties immediately west and north are currently residential single family homes and are already screened by the new solid board fence the applicant installed. The applicant has submitted a Written Commitment restricting certain uses in the C2 zoning district. The commitment is attached.

With the proposed Written Commitment, the zoning change will allow the existing parking lot to remain and be in compliance with the Zoning Ordinance. One letter was submitted expressing concern over certain commercial uses which are now prohibited by the commitment.

PUBLIC HEARING SUMMARY:

Presenter: Alan Falls, representing the applicant, presented the proposal to the Plan Commission as outlined above.

Comments in Favor:

Dan Wire, representing the Northside Neighborhood, spoke in favor.

Questions or Comments in Opposition:

None

FORT WAYNE PLAN COMMISSION • FINDINGS OF FACT

Rezoning Petition REZ-2017-0049

APPLICANT:	Ronald Falls
REQUEST:	To rezone property from R1/Single Family Residential to C2/Limited Commercial to permit the existing parking lot.
LOCATION:	The site lies on the north side of the 700 block of Kenwood Avenue. The property is to the west of Referral Cleaning and Restoration (Section 36 of Washington Township).
LAND AREA:	Approximately .2 acres
PRESENT ZONING:	R1/Single Family Residential
PROPOSED ZONING:	C2/Limited Commercial

The Plan Commission recommends that Rezoning Petition REZ-2017-0049, with an approved Written Commitment, be returned to Council with a “Do Pass” recommendation for the following reasons:

1. Approval of the rezoning request will not establish an undesirable precedent in the area. This property is located on the same parcel as the business that it is providing parking for. All four corners of this intersection all operate with varying commercial uses.
2. Approval of the request will not have an adverse impact on the current conditions in the area, or the character of current structures and uses in the area. No additional building improvements are proposed at this time.
3. Approval is intended to conserve property values in the area through compatible development. Many of the properties in this general are already commercial and the property in question already functions as a parking lot.
4. Approval is consistent with responsible development and growth principles based on existing uses and infrastructure in the area. Sewer, water, and public streets are available to the site. The proposed development does not require new structures or infrastructure.

These findings approved by the Fort Wayne Plan Commission on December 18, 2017.


Kimberly R. Bowman, AICP
Executive Director
Secretary to the Commission

Department of Planning Services
Rezoning Petition Application

Applicant
Applicant Ronald Falls
Address 2901 Parnell Ave.
City Fort Wayne State IN Zip 46805
Telephone 260-609-8600 Fax _____ E-mail ronfalls@hotmail.com
cell

Property Ownership
Property Owner Ronald Falls
Address 2901 Parnell Ave.
City Fort Wayne State IN Zip 46805
Telephone 260-609-8600 Fax _____ E-mail ronfalls@hotmail.com
cell

Contact Person
Contact Person SAHE
Address _____
City _____ State _____ Zip _____
Telephone _____ Fax _____ E-mail _____

All staff correspondence will be sent only to the designated contact person.

Request
☐ Allen County Planning Jurisdiction ☒ City of Fort Wayne Planning Jurisdiction
Address of the property 761 KENNEDY / 2907 PARNELL AVE
Present Zoning R1 Proposed Zoning C2 Acreage to be rezoned _____
Proposed density N/A units per acre
Township name * _____ Township section # 36
Purpose of rezoning (attach additional page if necessary) _____

Sewer provider FW Water provider FW

Filing Requirements
Applications will not be accepted unless the following filing requirements are submitted with this application. Please contact staff for applicable filing fees and plan/survey submittal requirements.
☐ Applicable filing fee
☐ Applicable number of surveys showing area to be rezoned (plans must be folded)
☐ Legal Description of parcel to be rezoned
☐ Rezoning Questionnaire (original and 10 copies) County Rezoning Only

I/we understand and agree, upon execution and submission of this application, that I am/we are the owner(s) of more than 50 percent of the property described in this application; that I/we agree to abide by all provisions of the Allen County Zoning and Subdivision Control Ordinance as well as all procedures and policies of the Allen County Plan Commission as those provisions, procedures and policies related to the handling and disposition of this application; that the above information is true and accurate to the best of my/our knowledge; and that I/we agree to pay Allen County the cost of notifying the required interested persons at the rate of \$0.85 per notice and a public notice fee of \$50.00 per Indiana code.

_____ (printed name of applicant)	_____ (signature of applicant)	_____ (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)
_____ (printed name of property owner)	_____ (signature of property owner)	_____ (date)

Received <u>DO NOT</u>	Receipt No. <u>125457</u>	Hearing Date	Petition No.
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Rez-2017-0049

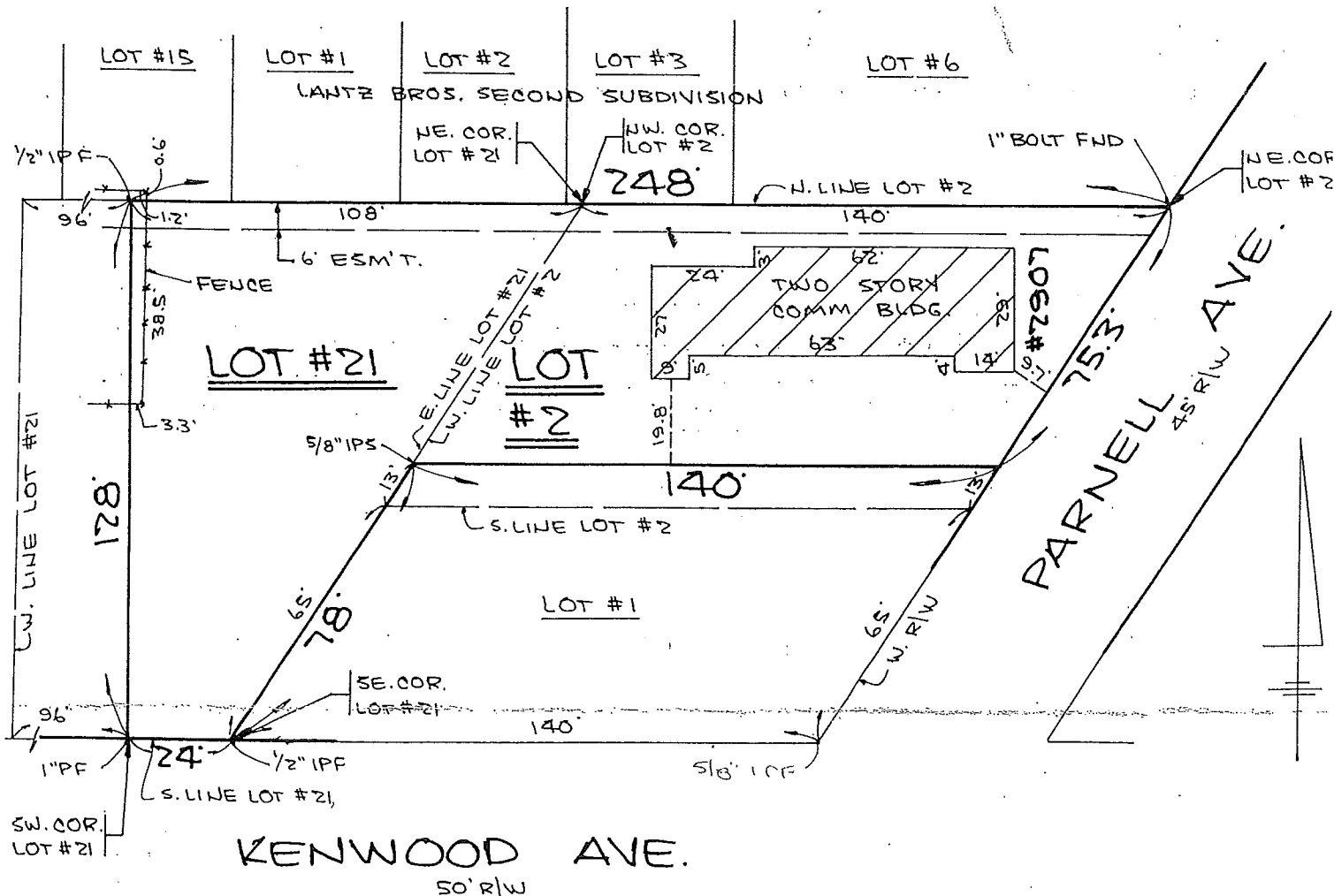
CERTIFICATE OF SURVEY

GREGORY L. ROBERTS PLS S0548 IN
KENNETH W. HARRIS PLS 9500021 IN

DONOVAN ENGINEERING INC
2020 INWOOD DRIVE
EXECUTIVE PARK
FORT WAYNE, INDIANA 46815

JOHN R. DONOVAN PE 9173 PLS 9921 IN
FRANCIS X. MUELLER PLS S0193 IN

The undersigned has made a re-survey of the real estate located in ALLEN County, Indiana, as shown and described below. The description of the real estate is as follows: **SEE ATTACHED SHEET!**



NOTE: According to the Flood Insurance Rate Map (FIRM) numbered 18003C0260 E, dated Feb. 16, 1995, the herein described real estate is located in Zone "X" and is not within the 100 year flood hazard area. The accuracy of this flood hazard statement is subject to map scale uncertainty.

701 Kenwood Ave.
2907 Parnell Ave.

CERTIFICATE OF SURVEY

GREGORY L. ROBERTS PLS S0548 IN
KENNETH W. HARRIS PLS 9500021 IN

DONOVAN ENGINEERING INC
2020 INWOOD DRIVE
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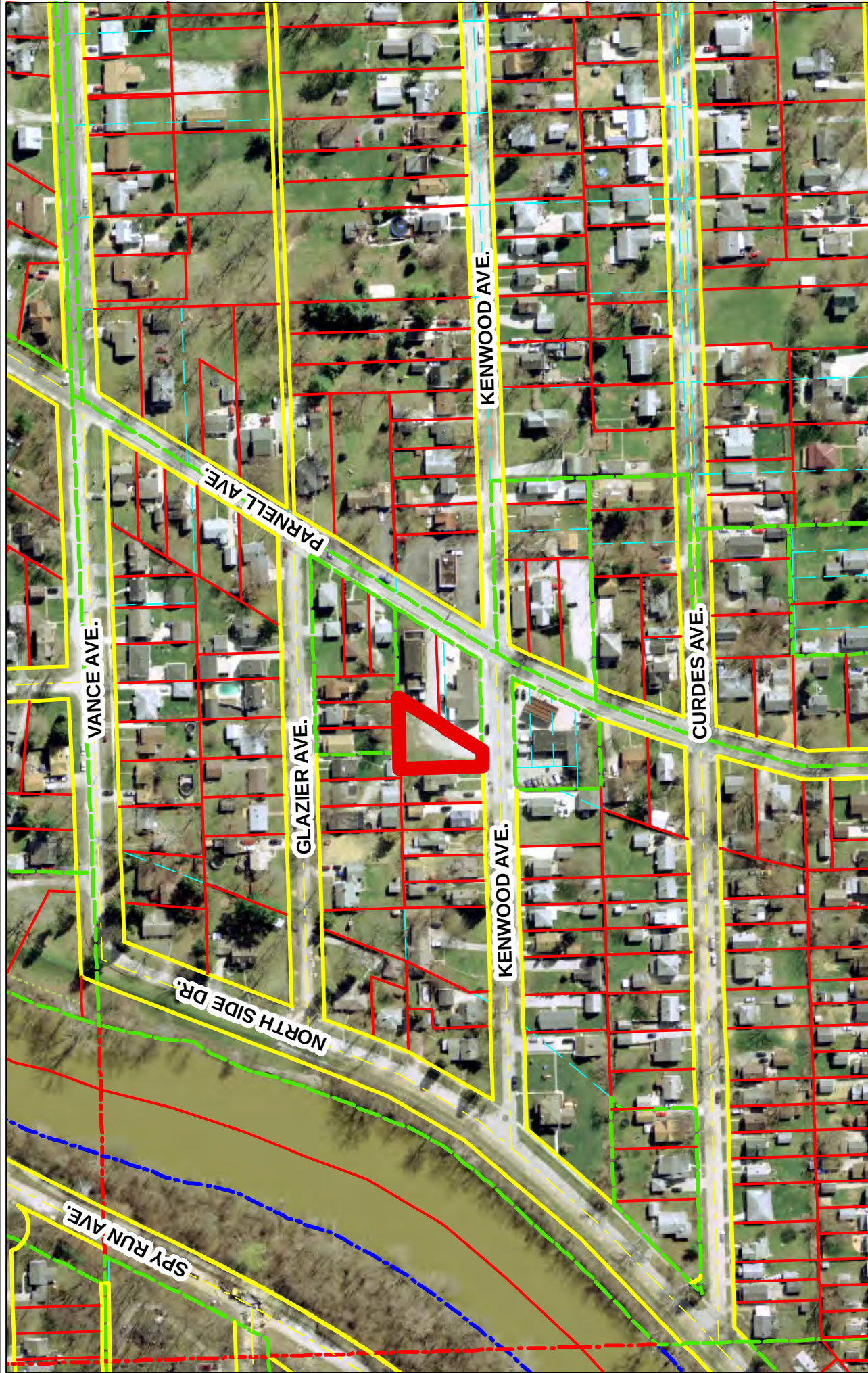
JOHN R. DONOVAN PE 9173 PLS 9921 IN
FRANCIS X. MUELLER PLS S0193 IN

The undersigned has made a re-survey of the real estate located in ALLEN County, Indiana, as shown and described below. The description of the real estate is as follows:

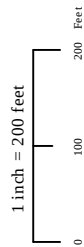
Commencing at the Northeast corner of Lot Numbered 2 in Weil's Subdivision of Lot Numbered 22 in Parnell Place Addition to the City of Fort Wayne in Allen County, Indiana; thence Southwesterly on the West line of Parnell Avenue 75.3 feet; thence West and parallel to the South line of said Lot 2, 140 feet to the West line of said Lot; thence Northeasterly on the West line of said Lot 75.3 feet to the Northwest corner thereof; thence East on the North line of said Lot, 140 feet to the point of beginning.

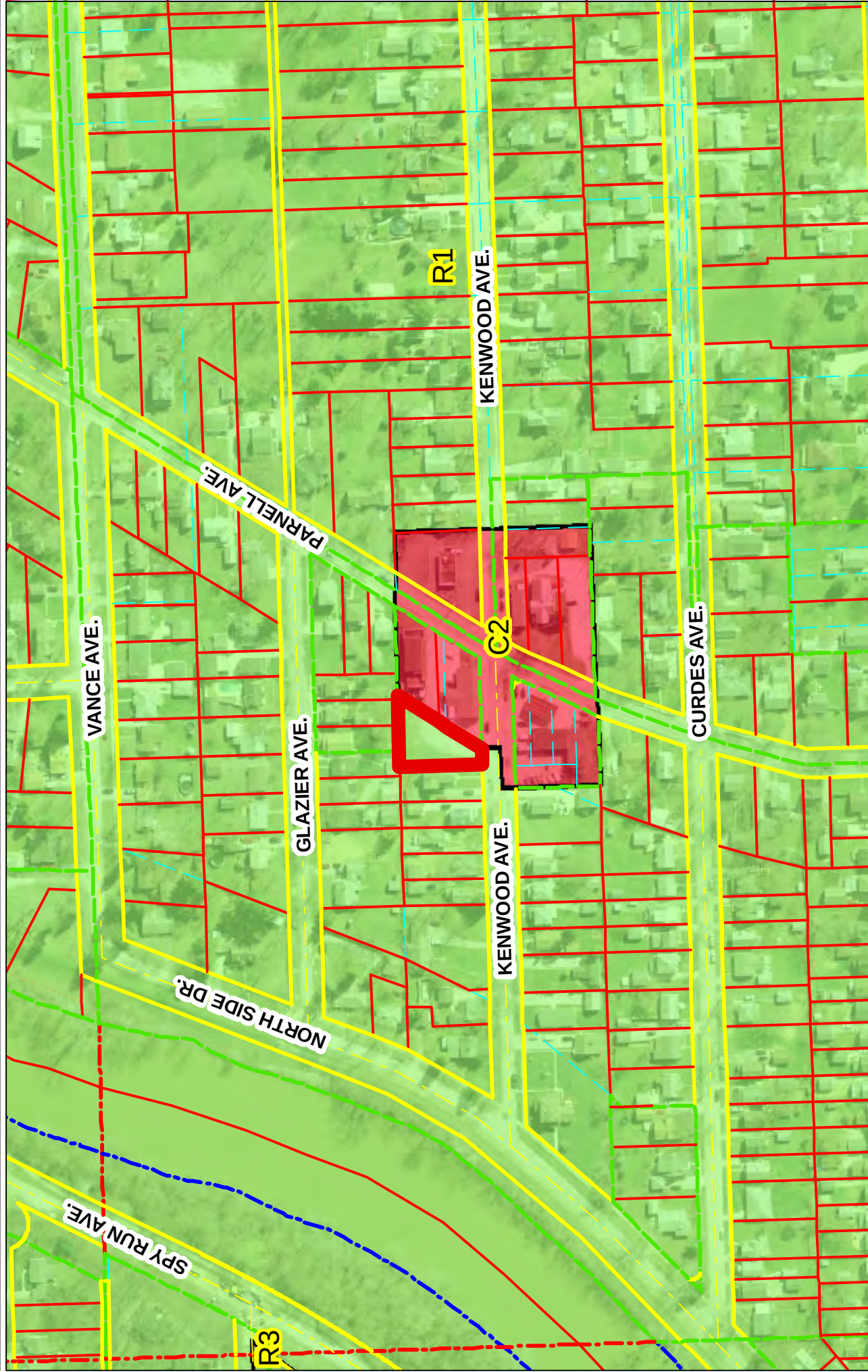
AND ALSO: Part of Lot 21 in Parnell Place Addition to the City of Fort Wayne, in Allen County, Indiana, described as follows, to wit:

Beginning at a point on the South line of said Lot 21, 96 feet East of the Southwest corner thereof; thence North on the line parallel with the West line of said Lot to the North line thereof; thence East on said North line to the Northeast corner thereof; thence in a Southwest direction along the East line of said Lot to the Southeast corner thereof; thence West on said South line of said Lot, 24 feet to the place of beginning.



Areas depicted with bold lines are for representational purposes only.





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1 inch = 200 feet



WRITTEN COMMITMENT

THIS WRITTEN COMMITMENT ("Commitment") is made as of this 28 day of December, 2017, by RONALD FALLS, the property owner ("Declarant"), under the following circumstances:

WITNESSETH:

WHEREAS, Declarant is the owner of approximately .19 acres of real estate located in Fort Wayne, Allen County, Indiana, the legal description of which is attached hereto as Exhibit A (the "Real Estate"); and

WHEREAS, Declarant's Zoning Map Amendment Application, filed with the City of Fort Wayne Plan Commission (the "Plan Commission"), bearing number REZ-2017-0049 (the "Application"), respecting the Real Estate, has been approved by the City of Fort Wayne, Indiana Common Council and the Mayor of the City of Fort Wayne; and

WHEREAS, pursuant to the Application, the Real Estate has been rezoned to C2 pursuant to the City of Fort Wayne Zoning Ordinance (the "Ordinance") which permits development upon the Real Estate of certain professional office and personal service uses and limited and retail commercial uses; and

WHEREAS, Declarant has submitted this Commitment, voluntarily, pursuant to section 157.503 of the Ordinance and Indiana Code 36-7-4-1015 for the purpose of limiting certain off site impacts and certain uses arising from development upon the Real Estate; and

WHEREAS, in conjunction with said Application, the Plan Commission has required the execution of this Commitment and its recordation with the Allen County, Indiana, Recorder's Office prior to the commencement of any building improvements for uses permitted pursuant to the Application.

NOW, THEREFORE, in consideration of the above and foregoing recitals, Declarant hereby impresses upon the Real Estate certain restrictions and covenants which shall run with the Real Estate and be binding upon Declarant and all future owners of the Real Estate, and all lessees of all or a portion of the Real Estate.

1. Use Limitations. The following specific uses, which are otherwise allowed in the C2 zoning district, shall be prohibited upon the Real Estate:

Animal Hospital

Animal Kennel
Animal obedience school
Arcade
Auction Service
Audio-visual sales
Automobile Accessory store
Automobile Rental (indoor or outdoor)
Automobile Sales (indoor or outdoor)
Automatic teller machine
Bait sales
Bar or tavern as a primary use.
Billiard/Pool Hall
Blood Bank
Bingo Establishment
Blood or Plasma Donor Facility
Boarding/lodging house
Bowling Alley
Child Care Center
Child Care Home (Class I or II)
Cigarette/tobacco Store
Consumer electronics sales/service
Convenience Store
Correctional services facility
Customer service facility
Dating service
Delicatessen
Department Store
Dialysis Center
Dinner theater
Dormitory
Drug store
Dry cleaning store
Entertainment facility
Firework Sales
Fitness Center
Flea Market
Floor covering/carpet store
Fraternity House
Funeral Home
Group residential facility (large and small)
Haunted House
Health Center/Club
Homeless/Emergency Shelter
Hospital
Hotel
Laundromat
Model Unit
Motel
Museum

Package Liquor Store
Planetarium
Public transportation or similar public facility
Radio Station
Recreation Facility
Rehabilitation Facility
Rental/Leasing Store
Rescue Mission
Residential Facility for Homeless Individuals
Sign Sales
Skating Rink
Social service agency
Sorority House
Swim Club
Swimming Pool/Hot Tub Sales
Tattoo Establishment
Taxi Service
Television Station
Tennis Club
Theater
Tire sales
Treatment Center
Wind energy conversion system (micro)
Veterinary Clinic
Zoo

The following special uses are also prohibited on the real estate:

Automobile Maintenance (quick service)
Commercial Communication Tower
Gas Station
Shooting Range (indoor and outdoor)
Homeless/emergency shelter
Residential facility for a court-ordered re-entry program
Residential facility for homeless individuals

2. Landscaping. The Declarant agrees to bring the parking lot area into compliance with the landscaping and screening requirements of the Ordinance when the parking lot is improved. Species and location will be reviewed by staff with a Certificate of Use.

3. Site Lighting. Any new wall mounted light fixtures will be full cut-off in nature. If freestanding pole lights are installed, they shall not exceed 15 feet in height and utilize full cut-off fixtures to prevent light spill.

4. Signage. Freestanding signage for the real estate will not exceed one 8-foot tall sign, with a maximum copy area of 80 square feet. No electronic message center signage is permitted on the site.

5. Successors and Assigns. This Commitment and the restrictions set forth above shall inure to the benefit of all persons who own property comprising the Real Estate, their successors and assigns, and shall also inure to the benefit of the Zoning Administrator of the City of Fort Wayne and the Plan Commission. This Commitment and the restrictions and limitations set forth herein shall run with the Real Estate, and any conveyance thereof, shall be binding upon Declarant and its successors and assigns as owners of the Real Estate.

6. Enforcement Rights. The City of Fort Wayne Zoning Administrator (the "Zoning Administrator") and the Plan Commission each shall have the option (but not the obligation) to enforce this Commitment, at law or in equity, in the event of a breach of an obligation in this Commitment; and in the event such an enforcement action is commenced, the Zoning Administrator or the Plan Commission (as applicable) shall have the remedies allowed by the Ordinance (or the ordinance governing the Real Estate at the time of the enforcement action) and I.C. §36-7-4-1015, which remedies shall be cumulative and not exclusive. A violation of this Commitment shall be deemed a violation of the Ordinance, or the ordinance governing the Real Estate at the time of the violation; provided, however, that nothing in this Commitment shall be construed as giving any person the right to compel enforcement of it by the Zoning Administrator or the Plan Commission, or any successor agency having zoning jurisdiction over the Real Estate.

7. Amendment or Termination. This Commitment may be amended or terminated upon application by an owner of the Real Estate and only with the prior written consent of all owners of the Real Estate and the Plan Commission, following a public hearing to consider said amendment or termination.

8. Remedies. In addition to any remedies that may be available at law, temporary, preliminary and permanent injunctive relief may be granted to enforce any provision of this Commitment, without the necessity of proof of actual damage, in the event of an actual breach or violation, or threatened breach or violation, of any restriction or covenant under this Commitment. Such remedies shall be cumulative and nonexclusive, and shall be afforded to any owner of property which comprises all or a portion of the Real Estate, the Zoning Administrator of the City of Fort Wayne and the Plan Commission.

9. Permits. No permits shall be issued under the Ordinance by the Zoning Administrator until this Commitment is recorded with the Allen County Recorder. The Declarant shall deliver to the Zoning Administrator and the Plan Commission an executed and recorded copy of this Commitment.

10. Severability. Each covenant or restriction contained in any paragraph of this Commitment shall be severable and separate, and if any court shall rule that any particular restriction or covenant is unenforceable, such ruling shall not affect the enforceability of any other restriction or covenant under this Commitment, and such other restriction or covenant shall be enforced.

11. Governing Law. This Commitment, including the restrictions and covenants hereunder, shall be governed by the laws of the State of Indiana.

12. Effective Date. This Commitment shall be effective upon its recording in the Office of the Recorder of Allen County, Indiana.

13. Last Deed of Record. The last deed of record for the Real Estate was recorded in the Office of the Recorder of Allen County, Indiana as Document Number _____.

14. Statutory Authority. This Commitment is made pursuant to I.C. §36-7-4-1015(a)(2).

[SIGNATURE AND EXHIBIT PAGES FOLLOW]

"DECLARANT"

RONALD FALLS

By: Ronald Falls - Ronald Falls

Name: Ronald Falls - Ronald Falls

Its: Ronald Falls

STATE OF INDIANA)
) SS:
COUNTY OF MARICOPA)

Before me, the undersigned, a Notary Public, in and for said County and State, this 28 day of December, 2017, personally appeared Ronald Falls as the property owner, and acknowledged the execution of the foregoing instrument for and on behalf of said company.

In witness whereof, I have hereunto subscribed my name and affixed my official seal.



Marcia Garcia
Marcia Garcia, Notary Public

My Commission Expires: April 25, 2020

My County of Residence: MARICOPA

THIS INSTRUMENT prepared by Ronald Falls

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. RONALD FALLS

When recorded, return to: RONALD FALLS
2901 Parnell Ave
Fort Wayne, IN 46805

EXHIBIT A

“LEGAL DESCRIPTION”

Part of Lot 21 in Parnell Place Addition to the City of Fort Wayne, in Allen County, Indiana, described as follows, to wit:

Beginning at a point on the South line of said Lot 21, 96 feet East of the Southwest corner thereof; thence North on the line parallel with the West line of said Lot to the North line thereof; thence East on said North line to the Northeast corner thereof; thence in a Southwest direction along the East line of said Lot to the Southeast corner thereof; thence West on said South line of said Lot, 24 feet to the place of beginning.